

EXHIBIT 21

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF ARIZONA
3 IN DEFENSE OF ANIMALS, a)
non-profit organization; the) Case No.
4 ANIMAL WELFARE INSTITUTE, a) CV-05-2754-PHX-FJM
non-profit organization; and)
5 the INTERNATIONAL SOCIETY)
FOR THE PROTECTION OF)
6 MUSTANGS and BURROS, a)
non-profit organization;)
7 PATRICIA HAIGHT, an)
individual; RICHARD POTTS,)
8 an individual,)
9 Plaintiffs,)
10 vs.)
11 UNITED STATES GOVERNMENT,)
DEPARTMENT OF AGRICULTURE,)
12 ANN M. VENEMAN as acting)
UNITED STATES SECRETARY OF)
13 AGRICULTURE; UNITED STATES)
FOREST SERVICE; ELAINE J.)
14 ZIEROTH as the acting UNITED)
STATES FOREST SUPERVISOR,)
15 Defendants.)

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18 DEPOSITION OF ELAINE JUNE ZIEROTH

19

20 Phoenix, Arizona
September 25, 2006
11:07 a.m.

21

22

23 (COPY)

24 PREPARED FOR:

25 CHRISTINE E. BROUCEK

ATTORNEY AT LAW

REPORTED BY:

KERRY FREMERMAN, CCR

Certified Court eporter

CCR No. 50754

1 of their culture.

2 Q. Who was your predecessor in the position
3 your currently serve in?

4 A. John Bedell. He's retired now.

5 Q. Do you know whether or not he is still in
6 the area?

7 A. He lives at Camp Verde.

8 Q. So in his position, much like yours, he
9 would have participated in the quarterly meetings
10 after the 2002 fire?

11 A. He was there for about nine months after
12 the fire and for about twelve years before the
13 fire.

14 Q. Okay. Getting back to my agenda here.

15 As far as inventorying the horses and
16 what is required under the Act, in addition to
17 managing the horses that may be on the Forest
18 Service public lands, isn't the secretary also
19 required to maintain a current inventory of wild
20 free-roaming horses and burros on these public
21 lands? Would you agree with that?

22 A. I agree with that.

23 Q. Is there a current inventory of the
24 horses on the Apache-Sitgreaves public lands?

25 MR. PATRICK: Objection to form.

1 A. The last inventory that I have seen in
2 the records that mention the Heber Horse Territory
3 was in the early 1990s. I believe it was around
4 1992.

5 And at that time the district ranger had
6 noted that there were still two old mares that were
7 within the Heber Horse Territory and that they had
8 not had any reproductions in the young horses in
9 there and so that it appeared that the population
10 was dying out at that time. That's the last
11 inventory I've seen. And since that time, none of
12 our employees have observed any of those horses --
13 those original horses still being in the territory.

14 Q. (BY MS. BROUCEK) Based on that, with
15 there being two mares in, say, the early 1990s, you
16 indicated earlier that it's always been an ongoing
17 issue with horses crossing back and forth between
18 the Indian territories and the Forest lands.

19 Was there any -- you indicated there was
20 only the last inventory was in the early 1990s. Do
21 you know why another inventory was not done to see,
22 if nothing else, what horses were traveling over
23 onto Forest Service lands?

24 A. I don't know whether any inventories were
25 done. I could find no documentation that

1 documented that they were done; just anecdotal
2 observations from employees that said that they had
3 not seen any horses out there since that time.
4 Whether they just felt that they didn't need to
5 document that because they felt the population had
6 basically died out or what, I have not seen any
7 documentation since that time.

8 Q. To your knowledge, have you seen any
9 documentation that would have given a reason or a
10 decision as to why no future -- or no inventories
11 took place after, say, 1992 or 1993?

12 A. The only document was the letter by my
13 predecessor John Bedell saying that they felt that
14 that -- there were only two horses left, and that
15 they were old. And at that point they wanted to
16 dissolve the territory because they didn't feel
17 that it was functioning as a wild horse territory
18 anymore. And so at that point, I think -- I
19 believe that the Forest felt that that was the end
20 of the wild horse territory, as far as their
21 responsibility for maintaining it.

22 Q. Is there any kind of separate budget that
23 the Forest Service works with to manage the wild
24 horse territory?

25 A. We have not received any money, to my

1 dispose of the animals through their regulations.

2 And that so -- but, again, I haven't found any
3 documentation, any written documentation to that
4 effect.

5 Q. And specifically within the time frame of
6 the -- say 1993 to 2005, when the decision was made
7 to round up the horses, was there any discussion
8 within the Forest Service or any documentation that
9 would -- that brought this to the attention that
10 there were horses coming back and forth and
11 something needs to be done to stop the inflow?

12 A. I'm not aware of documentation per se
13 talking about the horse issue. Again, we were
14 pursuing an agreement with the tribe to try to deal
15 with problems caused by the fence and the lack of
16 repair of the fence. And one of the issues there
17 was horses coming back and forth and one was cows.
18 But we didn't really have money, you know, to go
19 out and do censuses over two million acres. And
20 so, again, it was more observations that our
21 employees had that they saw horses in different
22 places on the Forest. But we didn't do any, you
23 know, Forest-wide census or documentation.

24 Q. Is it expensive to do census work and
25 inventory work?

1 A. It can be, especially if you have to do
2 it from an airplane. Because if you do it on the
3 ground, again, they may be hiding behind bushes or
4 trees and so it would be kind of haphazard to do it
5 by ground.

6 Q. Is it more effective to do it by plane?

7 A. It can be, but again they can hide.
8 We've got a lot of heavy forest cover and so it
9 would be easy to hide under trees or shrubs. And
10 then the animals move around quite a bit, too.

11 Q. To your knowledge, is there any -- I know
12 we talked about money a little earlier as far as
13 budgets. Is there a budget that is given if you
14 have a wild horse territory that you are supposed
15 to manage within the Forest Service? Is there any
16 allotment or budgetary funds that come your way to
17 manage that if you have an area designated so?

18 A. I am not aware that there's any money
19 that's given to us specifically for managing a wild
20 horse territory. If there are times that they need
21 to manage that territory, then they can make a
22 special budget request. We have not done anything
23 like that that I'm aware of on the
24 Apache-Sitgreaves National Forest, as far as asking
25 for any money specifically for managing the wild

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition
4 was taken before me, Kerry Fremerman, a Certified
5 Court Reporter, CCR No. 50754, State of Arizona;
6 that the witness before testifying was duly sworn
7 by me to testify to the whole truth; that the
8 questions propounded by to the witness and the
9 answers of the witness thereto were reduced to
10 typewriting under my direction; that the witness
11 elected to read and sign the deposition transcript;
12 that the foregoing 94 pages constitute a true and
13 accurate transcript of all proceedings had upon the
14 taking of said deposition, all done to the best of
15 my skill and ability.

16 I FURTHER CERTIFY that I am in no way
17 related to nor employed by any of the parties
18 hereto, nor am I in any way interested in the
19 outcome hereof.

20 DATED at Chandler, Arizona, this 10th day
21 of October 2006.

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Kerry Fremerman, RPR
Certified Court Reporter
Certificate No. 50754

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